

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.P.No.11971 of 2019
and W.M.P.Nos.12211 and 15684 of 2019

T.Balu ... Petitioner

-vs-

1.The Secretary,
Adi Dravidar Tribal Welfare Dept.,
Govt. of Tamil Nadu,
Secretariat, Chennai 600 009.

2.The Director,
Tribal Welfare, Chempauk,
Chennai 600 005.

3.The District Collector,
Salem District, Salem 636 001.

4.The District Project Officer,
Tribal Welfare Department,
Salem District.

5.The Special Thasildar,
Adi Dravidar & Tribal Welfare Dept.,
Salem District.

6.The Block Development Officer,
Yerkadu Union, Yerkadu Taluk,
Salem District.

7.Lakshmanan

8.Madhavi Kannappan

9.M/s.Asurre Agrotech Ltd.,
Rep. by S.Thangappalam.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondents to form the thar road on the 7th field and consider the petitioner's representation dated 18.03.2018 and 11.03.2019 in the light of the letter of the 3rd respondent in Na.Ka.No.B2/11237/2017 dated 01.11.2018.

For Petitioner : Mr.R.Singaravelu, Sr.
Counsel
for Mr.M.Muthusamy

For Respondent : Mr.S.Kamalesh Kannan
Govt. Advocate for RR 1 to 6
: Mr.AR.L.Sundaresan
Sr. Counsel, for
Mr.AR.Karthik Lakshmanan
for M/s.AL.Gandhimathi
for RR 7 and 8
: Mr.Thomas T.Jacob for R-9

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

This Public Interest Litigation has been filed praying for a passage for construction of a permanent road, which the petitioner alleges that it continues to be utilised by them and requires now a permanent status, keeping in view the need of the public as accessibility to remote areas in the vicinity is almost impossible, particularly, in bad weather.

2.We had adjourned the matter in order to find that the said need is considered and is resolved at the Collector's level, for which a Peace Committee had been formed. Today, learned State counsel has placed before us the Peace Committee proceedings dated 12.02.2020. The same is extracted as hereinunder:-

"PEACE COMMITTEE"- MEETING MINUTES

Salem District, Yercaud Taluk, Puthur Firka, Maramangalam Panchayat's villagers of Senthittu, Northenchedu, Arangam, Mathur and Pellakadu have requested formation of a new road to Kottachedu village through Lakshmi estate, Sai Estate, Kalleri Estate and many other private lands either, 6th field or 7th field. Regarding this issue a "Peace Committee" meeting was convened in the District Collector's office in the presence of Member of Legislative Assembly, Yercaud

and the Yercaud Panchayat Union Chairman on 12.02.2020 at 11.30 am. The details are discussed as below:

The public of 6th field, contended that they have been struggling to convert the 6th field mud road into tar-road for the past 24 years legally as well as with the guidance of Government Officials. If the 6th field mud road gets converted into tar-road, the basic needs of the tribal people such as medical, education and agricultural transportation will be improved. The travelling time of 23 kilometers will be reduced. If the mud road of Menangulikadu is linked with Kottachedu through 6th field, the distance will be reduced to 2.75 kilometers. The public are facing difficulties in carrying the pregnant women in cradle to hospitals due to the link road is not realised. They have also stated that due to this several women have died due to lack of timely treatment. Likewise treatment for poisonous snake bite is also delayed and the people died. They said that they live in such a situation in which the school students and college students of the above said villagers have to walk nearly 5-20 kilometers to Kottachedu bus stand in order to reach the school or college. The students studying in 10th, 11th, 12th gets scared to return home alone, due to the lack of proper road and timely running of buses.

The only remedy as sought by the public of Maramangalam panchayat to fulfill these basic needs is the formation of tar-road in 6th field through Lakshmi Estate and Kalleri Estate. They added that there is no objection for them if bus transportation facility is arranged for the people of Northenchedu and Kumbipadi. They also said that nearly 10,000 people of 18 villages in Maramangalam panchayat had been using the 6th field through Lakshmi Estate, Kalleri Estate and Menangilikaadu for time immemorial.

The representatives of Northenchedu and Kumbipadi of 7th field have been praying, the Hon'ble High Court, Madras to lay Tar- Road through 7th Field instead of 6th field. They have also given statement that while taking a decision for laying road, the order of the Hon'ble High Court, Madras may also be considered.

The representatives of TamilNadu Hindu Malayali Agricultural Development and Social Association stated that the road should be constructed in Senthittu - Menakulikadu through 6th Field till Kottachedu which would be beneficial/fruitful for the people and school

students of Northenchedu, Kumbibadi, Senthittu, Arangam, Chinnamathur, Periyamathur, Pelakadu, Akkaraikadu, Malayankadu, Kelayur, Mavuthu, Sumbaikadu and Kuttamathikodu and all villages of Maramangalam.

On behalf of the Kalleri Estate, the Manager of the estate attended the meeting and stated that they will accept the decision of the district administration for the welfare of the public and have no objection in laying the road in 6th field.

The District Collector questioned the representatives of the Lakshmi estate that why do you oppose giving land for laying road through the 6th field. The representative replied that they never oppose people to use the 6th field at present. If the road comes through 6th field their land will bifurcate into two or three parts and the irrigation pipe line will be affected and due to security reasons the administration feels it to be too difficult to handle.

Moreover, the representative of Lakshmi Estate said that, they had no objection in giving land to lay road through 7th field. If the road forms through 7th field the public from Northenchedu, Kumbipadi and all the villages can make use of it. Since the path comes in the corner of the estate, there will not be any hindrance for their administration. Since, a case filed by the people of Northenchedu and Kumbipadi in the Hon'ble High Court to lay tar- road through field 7th is pending, land could be given to lay road through the 7th field only.

The representatives stated that the owners have said that the land could not be given for both the field and submitted a letter given by the owner to the District Collector. He also added that the land owners alone could take the final decision regarding this issue, and promised that he will update these issues to the owners of the estate.

The Executive Engineer of Rural Development department stated that he inspected both fields and submitted his reports to the District Collector as follows:

1. Proposed length of the road through 6th field and 7th field are 3000m, 2700m respectively so longitudinal Gradient is less 6th field alignment.
2. Curves in 6th field are higher in numbers as compared

to 7th field but all are smooth.

3. By visual observation and local people enquires it is understood that the road through 6th field is more public utilization as compared to 7th field road.

4. Road alignment through 6th field is already formed. so that laying of B.T road is easy as compared to 7th field.

Based on the above reasons new BT road construction through 6th field is better option as compared to 7th field.

The Peace Committee headed by the District Collector has gone into various aspects involved in this issue in detail. The people who are insisting on laying of road through 6th field have been struggling for a long years of 24 years. The Lakshmi Estates' owners are not willing to allow either the public or the Govt to lay a road from Kottachedu to Menagulikadu through 6th field for the benefit of majority of the people living in 18 villages. The Adidravidar and Tribal Welfare department already followed up this issue and proceeded to release funds to acquire required extent of land on payment of land compensation to the owner of Lakshmi Estates. At that point of time, the objections raised by the people supporting the laying of road through 7th field delayed the process and the Adi Dravidar and Tribal Welfare Department directed district officials to settle the issue first and then send proposals for laying road.

Now the 7th field supporting public field a Writ Petition in the Hon'ble High Court, Madras and as per the direction for the Hon'ble High Court, Madras, this peace committee meeting was conducted. Whereas the same people have already filed a Writ Petition No.23367/2016 and was closed as per the orders of the Hon'ble High Court, Madras as detailed below"

"The petitioner wants roads for two villages in question, which is purely an administrative task. We put a query to the learned counsel for the petitioner whether he had even approached his elected representative in the form of the local M.L.A who would have been recently elected. The answer is in the negative. We do believe that it would be the elected representatives who are required to look into these aspects. It is an admitted position that as yet, no funds have been allocated. Thus, is the absence of the funds, this Court cannot issue direction, as the court cannot allocate funds.

2. The petitioner has made a representation on 10.03.2016 to the respondents. That representation may be looked into by the respondent concerned for remedying the grievance, if possible.

3. The writ petition is closed, leaving the parties to bear their own costs."

The people's representatives like Member of Legislative Assembly and Panchayat Union Chairman also expressed their opinion to lay road through 6th field. The Expert Opinion (i.e., The Executive Engineer, Rural Development) has clarified various doubts raised by the Owners' of the Lakshmi Estate and given report that laying of road through 6th field will be more beneficial to the villagers in all aspects.

Based on the deliberations had during the Peace Committee meeting, the opinion of the People's representatives, and the expert opinion of the Executive Engineer, Rural Development Department and the perusal of previous records the peace committee heading by the District Collector unanimously came to a conclusion to lay a road through the 6th field i.e., through the Lakshmi Estates by availing required funds from the Adi Dravidar and Tribal Welfare Department and the decision may kindly be submitted to the Hon'ble High Court, Madras."

From a perusal thereof, we find that earlier, a Writ Petition No.23367 of 2016 had been filed in relation to Field No.7, in which some observations were made enabling the petitioner therein to make a representation to be looked into by the respondents.

3. There is no dispute that Field No.6 and Field No.7, from where the road is proposed, is in the ownership of M/s.Lakshmi Estates. During the course of hearing of this petition, Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the said party, had made an offer that in the event parties agree, the estate owners can provide the passage through Field No.7, but he objected to the passage being opened through Field No.6, as it would be disadvantageous to the enjoyment of his property on various grounds.

4. From a perusal of the Peace Committee report, it appears that the Collector, on the basis of the opinion of the people's representatives, has recommended that the road can be laid conveniently through Field No.6 and not Field No.7.

5. Learned counsel for the petitioner contends that this matter has been engaging the attention of the State Government, which has not undertaken any positive steps and keeping in view

that only a natural path of mud being available, the same continues to cause inconvenience to the commuting public, including the villagers in and around the village.

6.Sri.AR.L.Sundaresan, learned Senior Counsel, contends that in the event the State Government is insisting upon Field No.6, then it can proceed only in accordance with law, and therefore, what we find is that in the event the road is to be constructed and laid through Field No.6, the State Government will have to compulsorily undertake proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 or else any forcible action to take over private holding will amount to violation of Article 300-A of the Constitution of India.

7.In the event, the Collector is going by the choice as expressed in the Peace Committee report, then it is open to him to submit a proposal for acquisition for the laying out of the road to the State Government and it will be open to the State Government to consider any such proposal in accordance with law. This shall be without prejudice to the rights of any private owner of the land to seek his remedy or contest the matter before the appropriate forum. It is expected that the State Government looking to the need of the local village, shall take appropriate steps and explore the possibility of other alternatives as well.

The Writ Petition is disposed of with the said observations. No costs. Consequently, W.M.P.No.12211 of 2019 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To

1.The Secretary,
Adi Dravidar Tribal Welfare Dept.,
Govt. of Tamil Nadu,
Secretariat, Chennai 600 009.

2.The Director,
Tribal Welfare, Chepauk,
Chennai 600 005.

3.The District Collector,
Salem District, Salem 636 001.

4.The District Project Officer,
Tribal Welfare Department, Salem District.

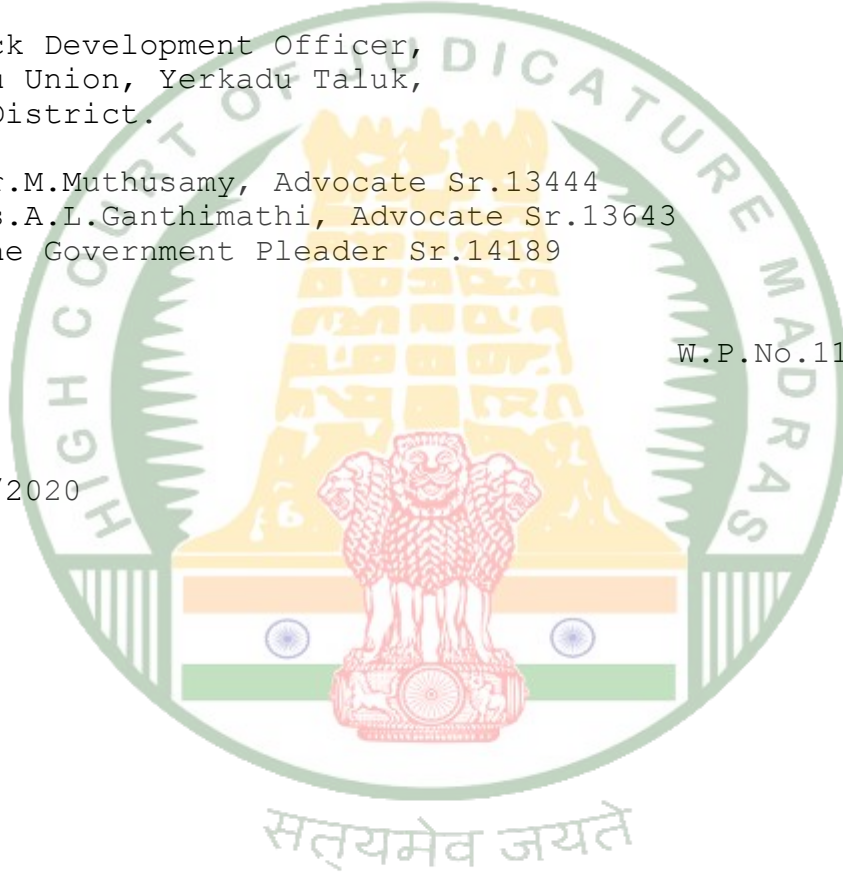
5.The Special Thasildar,
Adi Dravidar & Tribal Welfare Dept.,
Salem District.

6.The Block Development Officer,
Yerkadu Union, Yerkadu Taluk,
Salem District.

+1cc to Mr.M.Muthusamy, Advocate Sr.13444
+1cc to Ms.A.L.Ganthimathi, Advocate Sr.13643
+1cc to the Government Pleader Sr.14189

W.P.No.11971 of 2019

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srg 06/03/2020



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